

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

v.

SYED ZAIDI and TOQEER HUSSAIN,

Defendants.

Criminal No. 10-409

ORDER

THIS MATTER comes before the Court on Defendant Syed Zaidi's appeal of Magistrate Judge Patty Schwartz's most recent order of detention and request for bail pending sentencing. Zaidi's original bail conditions were set by Magistrate Judge Madeline Arleo on July 13, 2009, and included a \$100,000 unsecured bond, home detention, and electronic monitoring. At a second bail hearing on July 20, 2009, Judge Arleo increased Zaidi's unsecured bond to \$250,000 after it was determined that he had provided Pretrial Services with a false residential address. At a third bail hearing on July 14, 2010, Judge Schwartz converted the unsecured bond to a bond secured by 10% in cash or property. When Zaidi failed to satisfy this bail condition, Judge Schwartz issued an order for his arrest and subsequently revoked his bail and ordered him detained. This detention order was reiterated by Judge Schwartz at an October 27, 2010 bail hearing and at a January 24, 2011 bail hearing, as Zaidi continued to be unable to satisfy the requirement that he secure his bond with 10% in either cash or property.

In order to be released on bail pending sentencing, Zaidi must show, by clear and convincing evidence, that he is not likely to flee or pose a danger to the community. 18 U.S.C. § 3143(a). When a district court reviews a Magistrate Judge's detention order under 18 U.S.C. § 3145, the district court must exercise *de novo* review, but need not conduct a *de novo* evidentiary hearing. *United States v. Delker*, 757 F.2d 1390, 1395 (3d Cir. 1985); *see United States v. Ervin*, No. 09-CR-336, 2010 U.S. Dist. LEXIS 85395, at *4 (W.D. Pa. Aug. 19, 2010) (finding that a district court may hold an evidentiary hearing if necessary, but is not required to do so).

Judge Schwartz has repeatedly found that Zaidi remained a flight risk and would not be released without posting security on his bond. At the January 24, 2011 bail hearing, Zaidi requested release on an unsecured bond so he could attend to the health of his mother, who is in Pakistan. The Court agrees with Judge Schwartz's finding that the evidence regarding the health of his mother does not rise to clear and convincing evidence that he is not a flight risk, and therefore he should not be released without properly securing the \$250,000 bond.

The Court having considered the submissions of the parties and having reviewed the transcripts of Judge Schwartz's bail hearings; and for the reasons already stated on the record previously by Judge Schwartz; and for good cause appearing,

IT IS on this ____ day of February, 2011, hereby,

ORDERED that Magistrate Judge Patty Schwartz's January 24, 2011 Order that Defendant Syed Zaidi continue in detention is **AFFIRMED**, and it is

FURTHER ORDERED that Defendant Syed Zaidi's request for release on bail pending his sentencing is **DENIED**.



WILLIAM J. MARTINI, U.S.D.J.